

AUG 23 2005

CLERK, U.S. DISTRICT COURT
By _____ Deputy _____UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ANTONIO JENKINS

Plaintiff,

v. ORIGINAL
HUGE AMERICAN RESTAURANTS,
INC.

Defendant.

CAUSE NO. 3 - 05 CV 1688 - B

223/S

PLAINTIFF'S ORIGINAL COMPLAINT

Antonio Jenkins, Plaintiff herein, now files this his Original Complaint, and would show the Court as follows.

I. PARTIES

1. Plaintiff Antonio Jenkins is an individual residing within Dallas County, Texas.

2. Defendant Huge American Restaurants, Inc. is a Texas Corporation with its headquarters in Richardson, Texas and may be served with process through its registered agent, Sunil Dharod, Jr., 681 North Plano Road, Suite 121, Richardson, Texas 75081-2909.

II. JURISDICTION

3. This court has original jurisdiction over the claims asserted herein pursuant to 28 U.S.C. §§ 1331 and 1332 and 42 U.S.C. § 1981.

III. VENUE

4. Venue is proper in this Court because the cause of action accrued in Dallas County, Texas.

IV. FACTS

5. On July 6, 2004, at approximately 9:35 p.m., Plaintiff, an African-American male entered the Burger King restaurant located at the intersection of Plano Rd and Walnut in Richardson, Texas. Upon information and belief, the franchise for such restaurant is owned by Defendant.

6. Plaintiff sought to be served in the restaurant, but was told by Roberto Gonzalez, the manager on duty, that Mr. Jenkins could be served, but he would not be permitted to eat in the dining room. Mr. Jenkins noted that several Hispanic patrons were being permitted to eat in the dining room, and demanded an explanation. Mr. Gonzalez could not provide an answer, and Mr. Jenkins demanded to speak with his supervisor. Mr. Gonzalez responded by telling Mr. Jenkins "we don't have time for you" and instructed Mr. Jenkins to leave the restaurant, which Mr. Jenkins did.

7. On or about August 14, 2004, Mr. Jenkins again sought service at the same restaurant at approximately 9:30 p.m. Mr. Gonzalez again was on duty but instructed another employee to handle Mr. Jenkins. Plaintiff again was told that the dining room was closing shortly and that he would have to leave. Plaintiff became irate, at which point the employees in the store began laughing at him in front of his wife and children. Upon information and belief, the Hispanic patrons standing immediately behind Mr. Jenkins in line were served by Defendant's employees.

8. The next day Mr. Jenkins returned to the same restaurant and was told by the Assistant Manager on duty that the dining room does not close until

11 p.m. The person who had refused Mr. Jenkins service the night before told him that morning that he had been instructed by Mr. Gonzalez to do so.

IV. FIRST CAUSE OF ACTION—RACE DISCRIMINATION

9. Plaintiff incorporates paragraphs 1-8 herein by reference as if set forth in full.

10. In conduct hearkening back to segregation, Defendant discriminated against Plaintiff on the basis of his race by refusing him service, in violation of 42 U.S.C. §1981, which prohibits discrimination on the basis of race in the making of contracts.

11. As a proximate result of Defendant's conduct, Plaintiff has suffered damages in excess of the minimum jurisdictional requirements of this Court.

12. In addition, Plaintiff has been required to retain an attorney to represent him in connection with pursuing his statutory rights.

13. Defendant's conduct was intentional and willful and merits the imposition of punitive damages.

V. INJUNCTION

14. Plaintiff incorporates Paragraphs 1-13 herein by reference as if set forth in full.

15. In addition to monetary damages, Plaintiff requests that the Court enter a permanent injunction enjoining Defendant from refusing service to any person on the basis of race.

VI. PRAYER

16. Plaintiff incorporates Paragraphs 1-15 herein by reference, as if set forth in full.

17. Plaintiff prays that the Court enter judgment in his behalf and award him damages, including:

- a. actual damages
- b. Compensatory damages, including recovery for mental and emotional distress;
- e. Punitive damages;
- f. Costs of Court; and
- g. Reasonable and necessary attorney's fees.

18. Plaintiff further requests that the Court enter a permanent injunction enjoining Defendant from refusing service to any person on the basis of race.

VII. JURY DEMAND

26. Plaintiff requests a trial by jury.

WHEREFORE, Plaintiff requests that the Court enter judgment for Plaintiff as described herein, that Plaintiff be awarded actual damages, compensatory damages, costs, and attorney's fees, injunctive relief as set forth herein, and that Plaintiff be awarded such additional recovery to which the Court finds him justly entitled.

Respectfully submitted,



R.S. Ghio
Texas State Bar No. 00787531
LAW OFFICE OF R.S. GHIO
The Curtis Building
318 West Main St., Suite 100
Arlington, Texas 76010
Tel.: Metro (817) 543-2557
Fax: (817) 277-2557

ATTORNEY FOR PLAINTIFF



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM).

I. (a) PLAINTIFFS

Antonio Jenkins

AUG 23 2005

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS(b) County of Residence of First Listed Plaintiff
(EXCERPT IN U.S. PLAINTIFF CASES ONLY)

ORIGINAL

DEFENDANTS

Huge American Restaurants, Inc.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

R.S. Ghio, Law Office of R.S. Ghio, 318 West Main St., Ste. 100,
Arlington, Texas 76010 Metro 817-543-2557

Attorneys (If known)

3-05 CV 1688 - B

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Product Liability	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 447 Amer. w/Disabilities - Employment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 448 Amer. w/Disabilities - Other	<input type="checkbox"/> 510 Motions to Vacate Sentence	FEDERAL TAX SUITS	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 449 Amer. w/Disabilities - Employment	Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 450 Amer. w/Disabilities - Other	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 451 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 452 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 453 Amer. w/Disabilities - Employment	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only) 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

VI. CAUSE OF ACTION

Brief description of cause 42 U.S.C. Sec. 1981
Race Discrimination--Refusal to serve

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: Yes NoVIII. RELATED CASE(S)
IF ANY

(See instructions)

JUDGE

N/A

DOCKET NUMBER

N/A

DATE

August 23, 2005

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFF

JUDGE

MAG. JUDGE